



Paper No. 6

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OFFICE OF PETITIONS

In re Application of
Carlson, Rolf E.
Application No. 09/698,507
Filed: October 26, 2000
Attorney Docket No. xRCa-12

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed December 19, 2003, to revive the above-identified application. In view of the allegation in the petition of the timely filing of a reply and the evidence submitted in support thereof, the petition is more properly a petition under 37 CFR 1.181 requesting the withdrawal of the holding of abandonment in the above-identified application and has been so treated.

The petition to withdraw the holding of abandonment is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed January 2, 2001. The Notice set a period for reply of two (2) months from the mail date of the Notice. A reply was due on or before March 2, 2001. A Notice of Abandonment was mailed on October 1, 2002.

Petitioner states that the reply was in fact timely filed. To support this assertion, petitioner has submitted a copy of the return postcard which acknowledges receipt by the U.S. Patent and Trademark Office (USPTO) on March 5, 2001 of 1. Executed Declaration and Power of Attorney; 2. Executed Independent-Inventor Averment; and 3. Cover Letter in Duplicate.

The reply acknowledged as having been received in the USPTO on March 5, 2001 is not of record in the application file and cannot be located. However, MPEP 503 states that "A post card receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO." Accordingly, it is concluded that the reply was timely received in the USPTO but was apparently lost after receipt thereof.

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status.

A petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 does not require a fee. However, since the originally submitted reply was received after the two month period for reply, a one-month extension of time was required. Accordingly, the \$130.00 petition fee submitted with the instant petition on December 19, 2003, will be transferred to the \$55.00

extension of time fee. The remaining \$75.00 will be credited to petitioner's deposit account as authorized.

The Office sincerely apologizes for the inconvenience caused the petitioner in this matter.

This application is being returned to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-0482.

A handwritten signature in cursive script, appearing to read "Liana Chase".

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy